



February 20, 2002

ENGROSSED HOUSE BILL No. 1228

DIGEST OF HB 1228 (Updated February 19, 2002 10:49 AM - DI 77)

Citations Affected: IC 14-28.

Synopsis: Floodway regulation. Provides for the issuance of a permit for the construction of a building in a floodway if: (1) the floodway is protected by a levee inspected by the United States corps of engineers; and (2) the lowest floor of the structure will not be below the 100 year flood level plus one foot.

Effective: Upon passage.

Frenz, Friend

(SENATE SPONSORS — HUME, FORD, WATERMAN)

January 10, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

January 31, 2002, amended, reported — Do Pass.

February 4, 2002, read second time, ordered engrossed.

February 5, 2002, engrossed. Read third time, passed. Yeas 94, nays 2.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Natural Resources.

February 19, 2002, amended, reported favorably — Do Pass.

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EH 1228—LS 7013/DI 77+



February 20, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED HOUSE BILL No. 1228

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 14-28-1-22 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) As used in
3 subsection (b)(1) with respect to a stream, "total length" means the
4 length of the stream, expressed in miles, from the confluence of the
5 stream with the receiving stream to the upstream or headward
6 extremity of the stream, as indicated by the solid or dashed, blue or
7 purple line depicting the stream on the most current edition of the
8 seven and one-half (7 1/2) minute topographic quadrangle map
9 published by the United States Geological Survey, measured along the
10 meanders of the stream as depicted on the map.
11 (b) This section does not apply to the following:
12 (1) A reconstruction or maintenance project (as defined in
13 IC 36-9-27) on a stream or an open regulated drain if the total
14 length of the stream or open drain is not more than ten (10) miles.
15 (2) A construction or reconstruction project on a state or county
16 highway bridge in a rural area that crosses a stream having a
17 upstream drainage area of not more than fifty (50) square miles

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and the relocation of utility lines associated with the construction or reconstruction project if confined to an area not more than one hundred (100) feet from the limits of the highway construction right-of-way.

(3) The performance of an activity described in subsection (c)(1) or (c)(2) by a surface coal mining operation that is operated under a permit issued under IC 14-34.

(4) Any other activity that is determined by the commission, according to rules adopted under IC 4-22-2, to pose not more than a minimal threat to floodway areas.

(5) An activity in a boundary river floodway to which section 26.5 of this chapter applies.

(c) A person who desires to:

(1) erect, make, use, or maintain a structure, an obstruction, a deposit, or an excavation; or

(2) suffer or permit a structure, an obstruction, a deposit, or an excavation to be erected, made, used, or maintained;

in or on a floodway must file with the director a verified written application for a permit accompanied by a nonrefundable fee of fifty dollars (\$50).

(d) The application for a permit must set forth the material facts together with plans and specifications for the structure, obstruction, deposit, or excavation.

(e) An applicant must receive a permit from the director for the work before beginning construction. The director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the structure, obstruction, deposit, or excavation will not do any of the following:

(1) Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

(2) Constitute an unreasonable hazard to the safety of life or property.

(3) Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

(f) In deciding whether to issue a permit under this section, the director shall consider the cumulative effects of the structure, obstruction, deposit, or excavation. The director may incorporate in and make a part of an order of authorization conditions and restrictions that the director considers necessary for the purposes of this chapter.

(g) A permit issued under this section:

(1) is void if construction is not commenced within two (2) years after the issuance of the permit; and

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- 1 (2) to:
- 2 (A) the Indiana department of transportation or a county
- 3 highway department if there is any federal funding for the
- 4 project; or
- 5 (B) an electric utility for the construction of a power
- 6 generating facility;
- 7 is valid for five (5) years from the date of issuance and remains
- 8 valid indefinitely if construction is commenced within five (5)
- 9 years after the permit is issued.
- 10 (h) The director shall send a copy of each permit issued under this
- 11 section to each river basin commission organized under:
- 12 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or
- 13 (2) IC 14-30-1 or IC 36-7-6 (before its repeal);
- 14 that is affected.
- 15 (i) The permit holder shall post and maintain a permit issued under
- 16 this section at the authorized site.
- 17 **(j) For the purposes of this chapter, the lowest floor of a**
- 18 **building, including a residence or abode, that is to be constructed**
- 19 **or reconstructed in the one hundred (100) year floodplain of an**
- 20 **area protected by a levee that is:**
- 21 **(1) inspected; and**
- 22 **(2) found to be in good or excellent condition;**
- 23 **by the United States Army Corps of Engineers shall not be lower**
- 24 **than the one hundred (100) year frequency flood elevation plus one**
- 25 **(1) foot.**
- 26 **SECTION 2. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1228, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Page 2, line 27, reset in roman "that".

Page 2, line 27, delete "following:".

Page 2, line 28, delete "(1) The".

Page 2, run in lines 27 through 28.

Page 2, line 30, reset in roman "(1)".

Page 2, line 30, delete "(A)".

Page 2, line 32, reset in roman "(2)".

Page 2, line 32, delete "(B)".

Page 2, line 34, reset in roman "(3)".

Page 2, line 34, delete "(C)".

Page 2, block indent lines 30 through 35.

Page 2, delete lines 36 through 39.

Page 3, after line 21, begin a new paragraph and insert:

"(j) For the purposes of this chapter, the lowest floor of a building, including a residence or abode, that is to be constructed in the one hundred (100) year floodplain of an area protected by a levee that is:

(1) inspected by; and

(2) found to be in good or excellent condition;

by the United States Army Corps of Engineers shall not be lower than the one hundred (100) year frequency flood elevation plus one (1) foot.

SECTION 2. An emergency is declared for this act."

and when so amended that said bill do pass.

(Reference is to HB 1228 as introduced.)

LYTLE, Chair

Committee Vote: yeas 11, nays 1.



COMMITTEE REPORT

Mr. President: The Senate Committee on Natural Resources, to which was referred House Bill No. 1228, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 18, after "constructed" insert "**or reconstructed**".

Page 3, line 21, delete "by".

and when so amended that said bill do pass.

(Reference is to HB 1228 as printed February 1, 2002.)

FORD, Chairperson

Committee Vote: Yeas 7, Nays 0.

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